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Department of Environmental Resources
1875 New Hope Street
Norristown, PA 19401
215 631-2415

February 10, 1982

Christiana Metals Corporation
200 East Rosedale Avenue
West Chester, PA 19380

Attention: Mr. D.W. Hedges
President

CONSENT ORDER AND AGREEMENT

NOW, THEREFORE, on this ____ day of February, 1982 after full and complete negotiations of all matters set forth in this Consent Order and Agreement, both the Department and Bishop Tube Company ("Bishop Tube"), upon mutual exchange of covenants herein and intending to be legally bound by this Consent Order and Agreement, agree as follows:

1. Bishop Tube, Route 30 and Malin Road, Frazer, Chester County, Pennsylvania, is a Division of Christiana Metals Corporation, 200 East Rosedale Avenue, West Chester, Chester County, Pennsylvania; and,
2. Bishop Tube is a corporation qualified to do business in the Commonwealth of Pennsylvania; and,
3. On June 9, 1981 nitric acid from a storage tank outside of Bishop Tube entered an adjacent hydrofluoric acid storage tank through a common piping connection and caused the release of acid fumes from the vent for the hydrofluoric acid tank. These fumes were carried by the prevailing winds eastward toward the General Warren Village housing development. About 500 residents of the village were evacuated from their homes for about four hours to escape the effects of the fumes. Eleven people were treated at Paoli Memorial Hospital for various respiratory ailments, nausea, etc. and released. One fireman was admitted for further treatment and released on June 13, 1981; and,
4. On June 10, 1981 the mixed acid sludge remaining in the hydrofluoric acid storage tank after it was drained following the fuming incident on June 9, 1981 ate through the bottom of the tank and caused a second release of acid fumes. Residents of General Warren Village were again evacuated from their homes as a precautionary measure. Five people were treated for respiratory problems at Paoli Memorial Hospital and released; and,

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5. The Commonwealth of Pennsylvania, Department of Environmental Resources ("Department") has determined that the above mentioned fuming incidents caused injury to trees downwind of Bishop Tube; and,
6. The Department has determined that the fugitive and malodorous emissions from Bishop Tube's hydrofluoric acid storage tank on June 9 and 10, 1981 were in violation of Sections 8 and 13 of the Air Pollution Control Act, 35 P.S. Section 4001, et seq ("Act") and Sections 121.7, 123.1 and 123.31 of Chapters 121 and 123 of the Rules and Regulations of the Department, 25 Pa. Code Chapters 121 and 123 ("Rules and Regulations"); and,
7. Subsequent to the two fuming incidents in June, 1981 the Department determined that malodorous emissions from Bishop Tube's "pickle house" enter the outdoor atmosphere under normal operating conditions in violation of Section 123.31 of the Department's Rules and Regulations; and,
8. Bishop Tube has indicated its willingness to comply with the Act and the air pollution regulations promulgated thereunder; and,
9. The Department and Bishop Tube met on October 5, 1981 and agreed to settle voluntarily the Department's claim for civil penalties against Bishop Tube for the fugitive and malodorous emissions that occurred on June 9 and 10, 1981 on the basis of Bishop Tube's payment of Ten Thousand Dollars (\$10,000.00) to the Clean Air Fund of Pennsylvania.
10. Bishop Tube shall make payment of Four Hundred Dollars (\$400.00) immediately upon execution of this agreement. The remaining Nine Thousand Six Hundred Dollars (\$9,600.00) shall be payable in monthly installments of Eight Hundred Dollars (\$800.00) each due on the tenth day of the month. The first monthly payment is due March 10, 1982. All checks shall be made payable to "Clean Air Fund of Pennsylvania" and be forwarded to:

Mr. Morris Malin, Chief
Division of Abatement and Compliance
Bureau of Air Quality Control
18th Floor, Fulton Building
200 North Third Street
Harrisburg, PA 17120

Payments shall be accompanied by form No. ER-AQ-3, a copy of which is attached hereto.

11. In order to bring its "pickle house" into compliance with the Air Pollution Control Act and all applicable provisions of the Department's Rules and Regulations during normal operations, Bishop Tube shall:
 - a. On or before February 28, 1982 submit to the Department's Morristown Regional Office two (2) copies of an application for Plan Approval to construct and operate a new packed tower scrubber to control acid fumes from the "pickle house". By issuing any such Plan Approval, the Department does not represent, guarantee or stipulate that said installation will bring Bishop Tube's "pickle house" into compliance with the Air Pollution Control Act and the Rules and Regulations of the Department. Vents from the outside storage tanks for hydrofluoric acid and nitric acid shall be tied into the new packed tower scrubber along with all acid pickling tanks located inside the plant.
 - b. On or before April 30, 1982 place purchase orders for the new packed tower scrubber to be installed on the "pickle house". Proof thereof by confirming letter shall be submitted to the Department within ten (10) days after such orders are placed.
 - c. On or before July 31, 1982 begin on-site construction or installation of the new packed tower scrubber for the "pickle house" that has been given Plan Approval by the Department.
 - d. On or before September 30, 1982 complete on-site construction or installation of the new packed tower scrubber for the "pickle house" that has been given Plan Approval by the Department.
 - e. On and after October 31, 1982 operate the "pickle house" in compliance with all applicable provisions of the Air Pollution Control Act and all applicable Rules and Regulations of the Department.
12. In the event that Bishop Tube fails to comply with the final compliance date of October 31, 1982 specified in Paragraph 11(e) above, Bishop Tube shall make an additional payment of Eight Hundred Dollars (\$800.00) per month to the Clean Air Fund of Pennsylvania until final compliance is achieved. In no event shall final compliance be delayed beyond December 31, 1982. Payment shall be made in the same manner as described in Paragraph 10 above.
13. Commencing on January 1, 1982, Bishop Tube shall prepare to submit to the Department's Morristown Regional Office quarterly progress reports

including, inter alia, information on the availability of equipment and materials, until such time as Bishop Tube is notified in writing by the Department that such reports are no longer necessary to effectuate the purposes of this Order. Progress reports shall be due on April 15, 1982; July 15, 1982; October 15, 1982; and January 15, 1983, at a minimum.

14. During the time period covered by this Consent Order and Agreement, Bishop Tube shall take all reasonable interim measures suggested by the Department to keep the above-described malodorous emissions to a minimum.
15. Nothing herein shall be construed to preclude Bishop Tube from discontinuing the operation of any source of air pollution which is the subject of this Consent Order and Agreement. Any such discontinuance shall, for the duration thereof, have the same effect as compliance with the Department's Regulations. However, if Bishop Tube does discontinue said source's operation, it shall promptly so notify the Department in writing. Notwithstanding any provisions of this Consent Order and Agreement, if a source is out of operation for one year or more, it shall be subject to Section 127.11 of the Department's Regulations.
16. In the event that Bishop Tube fails to comply with Paragraph 11 by the dates specified therein and said failure is caused by strikes, lockouts, floods, fire, explosions, extraordinary weather conditions, vandalism, riots, wars, sabotage, civil disturbances, or any other cause beyond the control of Bishop Tube, Acts of God, or delays in the construction, installation, or delivery of equipment or material, which delays are not within the control of Bishop Tube, its agents, servants, employees, successors and assigns, or which Bishop Tube by exercising reasonable diligence is unable to prevent, then Bishop Tube shall be relieved of its obligations to comply with Paragraph 11 within the times specified therein and the time for compliance shall be extended one day for each day of delay so incurred. Bishop Tube shall be entitled to the benefits of this paragraph only if it submits a written report within fifteen (15) days of the occurrence of each delay to the Regional Air Pollution Control Engineer explaining the reasons for such delay.
17. This Consent Order and Agreement shall have the force, effect and be enforceable as an Order of the Department issued pursuant to the Pennsylvania Air Pollution Control Act. Bishop Tube, recognizing its right to appeal any Order of the Department, hereby waives its right to appeal this Order.

18. So long as Bishop Tube complies with the provisions and requirements set forth in this Consent Order and Agreement within the times specified for such performance, unless otherwise excused hereunder, the Department shall not institute any action at law or in equity for the violations of the laws of the Commonwealth alleged in Paragraph 3-7 hereof; but, if Bishop Tube fails to fully comply with the provisions and requirements hereof in a timely manner, unless otherwise excused hereunder, the Department reserves the right to institute any appropriate action based upon any violation whether or not said violation predates Bishop Tube's failure to fully comply with this Consent Order and Agreement.
19. The Department reserves all rights to enforce this Consent Order and Agreement and to prosecute any violations of the Air Pollution Control Act and/or the Rules and Regulations promulgated thereunder, except those explicitly waived in this Consent Order and Agreement. This Consent Order and Agreement shall not be considered as a limitation or abridgment of the Department's rights and duties pursuant to emergency control strategies under Section 6.2 of the Act, 35 P.S. Section 4006.2.
20. In the event of a material breach, the Department may, at its option, in addition to the remedies prescribed herein, proceed with any action at law or in equity to bring about compliance with the Pennsylvania Air Pollution Control Act and the Rules and Regulations of the Department.
21. It is the intent of the parties herein that the clauses are severable and should any part of the clauses herein be declared by a court of law to be invalid and unenforceable, the other clauses shall remain in full force and effect as between the parties, their successors, assigns, agents and servants.
22. Nothing herein contained shall be construed to relieve or limit Bishop Tube from complying with the terms and conditions of any plan approval or permit existing, or hereafter issued to Bishop Tube by the Department.
23. It is agreed that any changes, additions or amendments to this Consent Order and Agreement shall be set out in writing as an amendment and signed by the parties hereto.
24. This Consent Order and Agreement does not grant a variance from any requirement of the Air Pollution Control Act (35 P.S. Section 4001,

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et seq), the Clean Air Act (42 U.S.C. Section 7401 et seq.), or any regulations promulgated thereunder, nor does it purport to modify any requirement of Pennsylvania's State Implementation Plan as approved under Section 110 of the Clean Air Act. Further, this Consent Order and Agreement does not constitute a Consent Order and Agreement under the provisions of Section 113(d) of the Clean Air Act. Notice is hereby provided to Bishop Tube that it may be subject to additional penalties for non-compliance with the Pennsylvania State Implementation Plan under Section 120 of the Clean Air Act.

25. Attached hereto as Exhibit A is evidence of a resolution of the Board of Directors of Christiana Metals Corporation authorizing the signatures for Bishop Tube Company to enter into this Consent Order and Agreement in behalf of the Bishop Tube Company.

FOR: COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

DATE

N. Rao Kona
Regional Air Pollution Control Engineer

Ken Gelburd
Attorney for the Commonwealth

FOR: BISHOP TUBE COMPANY

DATE

Corporate President or Vice-President

Corporate Seal

Corporate Secretary or Treasurer

Attorney for the Corporation

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